

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

AC MEDIA GROUP and ELIZABETH  
DUFEK,

Plaintiffs,

v.

ISABEL MACCHIA,

Defendant.

Case No. 19-CV-1861-JPS

**ORDER**

On December 19, 2019, Plaintiffs filed this case alleging a series of contract-related claims. (Docket #1). On December 27, 2019, Plaintiffs amended their complaint to include additional factual allegations. (Docket #11). The parties attempted to proceed through a motion for summary judgment, but, given the inadequate briefing on subject-matter jurisdiction by both parties, the Court denied the motion without prejudice. (Docket #28). Due in part to the effects of the COVID-19 pandemic on civil litigation, this case sat on the Court's docket until a July 2021 status conference at which the Court issued two important dates: (1) dispositive motions are due Friday, April 1, 2022, and (2) trial shall begin Monday, July 25, 2022. (Docket #30). Plaintiffs have now brought a motion to compel, which the Court will grant. (Docket #32).

According to Plaintiffs, they served their first set of interrogatories and requests for production of documents (the "First Set of Discovery") on Defendant on August 10, 2021. (Docket #33 at 2). Defendant's response to Plaintiffs' First Set of Discovery was due within 30 days (i.e., September 9, 2021). (*Id.*) Defendant failed to provide a response to the First Set of

Discovery on or before September 9, 2021 and did not request an extension of time. (*Id.*)

On September 15, 2021, Plaintiffs sent defense counsel an email inquiring as to the status of Defendant's discovery responses. (*Id.*) Defense counsel responded on the same day, requesting an extension to serve discovery responses on or before September 24, 2021. (*Id.*) Plaintiffs agreed to this request. (*Id.*) On September 24, 2021, defense counsel sent an email to Plaintiffs' counsel requesting another extension through October 8, 2021. Plaintiffs again agreed. (*Id.*) Defendant, however, failed to provide any response to the First Set of Discovery or request another extension. (*Id.*) To date, Plaintiffs have not received any response to the First Set of Discovery. (*Id.*)

Parties are required to respond promptly and in good faith to discovery requests. Fed. R. Civ. P. 26(a), 33(b)(2), 34(b)(2). If a party fails to respond, the opposition may file a motion to compel. Fed. R. Civ. P. 37(a). Before doing so, however, Civil Local Rule 37 requires the party to personally consult with the opposing party in order to resolve differences. The rule requires a written certification that the moving party has attempted, in good faith, to confer. Civ. L.R. 37. Plaintiffs filed a declaration from attorney Shannon D. McDonald that describes Plaintiffs' attempts to resolve the issues; Plaintiffs attached email correspondence demonstrating their attempts to communicate with opposing counsel in order to resolve the discovery dispute. (Docket #35; #35-1; #35-2; #35-3; #35-4).

Defendant responds that she intends to produce the requested discovery but that she needs more time in which to do so. (Docket #36). Her counsel represents that assembling the responsive discovery is "particularly complicated" because Defendant resides in Australia. (*Id.* at

2). Counsel and Defendant are struggling to adapt to the eleven-hour time difference. (*Id.*)

This case has been pending for over *two years*. The Court recognizes that litigation slowed down in the year following the start of the pandemic, but, with electronic communication, Defendant and her counsel should have been able to figure out a way to better communicate with each other and bridge the time difference. It is time to get this case on track for dispositive motions. In light of the Plaintiffs' submissions to the Court, the Court will grant Plaintiffs' motion to compel. Given the time that has already been afforded to Defendant to compile her discovery response while the Court decided the present motion—approximately two months since the motion became fully briefed—the Court will give Defendant fourteen (14) days to respond to Plaintiffs' discovery requests. No extensions will be granted.

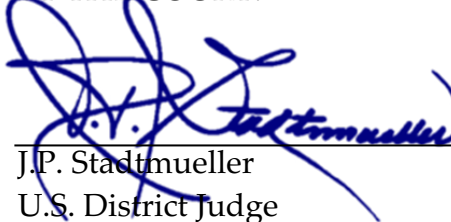
Accordingly,

**IT IS ORDERED** that Plaintiffs' motion to compel (Docket #32) be and the same is hereby **GRANTED**; and

**IT IS FURTHER ORDERED** that Defendant is to respond to Plaintiffs' discovery requests within fourteen (14) days.

Dated at Milwaukee, Wisconsin, this 18th day of January, 2022.

BY THE COURT:



J.P. Stadtmueller  
U.S. District Judge